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SUBJECT: DESIGNING AN ENVIRONMENT MINISTRY

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SENSITIVE BUT UNCLASSIFIED, HANDLE ACCORDINGLY

SUMMARY

11. (SBU) Instructed by President Garcia, a commission of experts presented draft legislation on March 3 establishing an Environment Ministry in Peru and outlining its structure and responsibilities. After discussion and tweaking by the Council of Ministers, the GOP plans on creating the Ministry using the temporary legislative powers delegated by the Congress for U.S.-Peru Trade Promotion Agreement (PTPA) implementation (reftel). Responding to long-standing criticisms, the proposed Ministry would: have clout and authority over other ministries on environmental matters, have improved enforcement and sanctioning authority, approve Strategic Environmental Studies as well as Environmental Impact Assessments for large-scale or environmentally sensitive projects, issue binding opinions on investment projects that could affect Natural Protected Areas before they move forward, and provide opportunities for civil society involvement. The Ministry will not assume productive responsibilities (e.g. timber concessions), and other ministries will still maintain sector-specific environmental offices that will follow the new Ministry's policies. End Summary.

BACKGROUND: EXECUTIVE TO ESTABLISH NEW MINISTRY

12. (SBU) Surprising even senior GOP officials, President Garcia announced on December 20 that he would establish a Ministry of Environmental Affairs. Garcia asked renowned ecologist Antonio Brack to lead a commission to propose the structure and functions of the new ministry. Brack's commission, which included environmental officials, NGOs and private sector representatives, was established February 1 and presented its proposal to the GOP on March 3. The proposal is scheduled to be discussed by the Council of Ministers on March 12, and the Executive plans on using the legislative powers delegated by the Congress to implement the U.S.-Peru Trade Promotion Agreement (PTPA, see reftel) to establish the new ministry without need for a Congressional vote (these powers expire June 28). Post has obtained a copy

of the Brack Commission's 15-page proposal, and below are the structural and functional highlights most relevant to U.S. interests.

PROPOSED MINISTRY STRUCTURE

13. (U) The proposal includes a Vice Ministry for the Strategic Development of Natural Resources, a Vice Ministry for Environmental Management, a Trans-Sectoral Environmental Committee, an Environmental Coordination Council, and an Environmental Dispute Resolution Tribunal. The Ministry's internal administrative bodies would include a Regional Coordination and Socio-Environmental Issues Office and a Negotiation and International Cooperation Office.

14. (U) The Vice Ministry for the Strategic Development of Natural Resources would include the following directorates: Biodiversity and Coastal Marine Resources; Forest Patrimony and Wildlife; Climate Change; and Environmental Land Planning and Soils. The Vice Ministry for Environmental Management would include the following directorates: Environmental Policies, Norms and Valuation; Management Instruments; Environmental Science, Technology and Innovation; Environmental Education, Culture and Citizenship; and Environmental Quality.

PRE-EXISTING & NEW ENTITIES UNDER MINISTRY

15. (U) The existing National Environmental Commission (CONAM) would be fused entirely into the Ministry, along with large portions of the Ministry of Agriculture's National Institute for Natural Resources (INRENA) and the Ministry of Health's Environmental Health Directorate (DIGESA). The following existing GOP entities would be moved under the new Ministry with varying degrees of autonomy: the National Meteorological and Hydrological Service (SENAMHI, currently part of Defense), the Geophysical Institute of Peru (IGP,

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currently part of Education), and the Peruvian Amazon Research Institute (IIAP). A new supervisory entity, the Environmental Supervision and Enforcement Organism (OSFA), the National Authority for the Management of Water Resources and Basins, and the National Natural Protected Areas Service (SERNANP) would be established.

PROPOSED MINISTRY FUNCTIONS

16. (U) The Ministry's overall mission would be to establish, execute, supervise, and evaluate national environmental policy applicable to all levels of government. Its scope includes enforcement, control, and the imposition of sanctions. Objectives would include:

- promoting the sustainable use of natural resources;
- conserving biodiversity and natural protected areas;
- the sustainable development of the Amazon;
- preventing the degradation of the environment and of natural resources, and reverting negative processes that affect them;
- guaranteeing citizen participation in the decision-making process for sustainable development;
- contributing to Peru's competitiveness through efficient environmental performance; and
- incorporating sustainable development principles into national policies and programs.

17. (U) The proposed specific and exclusive functions of the Ministry include the following items of particular US interest:

- direct the process for elaborating and revising Environmental Quality Standards and Maximum Permissible Limits;
- direct a National System of Environmental Impact Assessments (EIAs) and approve all Strategic Environmental Studies as well as EIAs for large-scale or environmentally sensitive projects;

-- direct a National Environmental Information System;
-- establish the criteria and procedures for environmental decontamination and recovery plans;
-- propose, approve, supervise and evaluate Natural Protected Areas (NPAs) policies;
-- emit binding technical opinions on investment projects that could affect NPAs and their buffer zones before such investments move forward;
-- preside committees related to implementation of and compliance with international environmental agreements; and
-- supervise and sanction all levels of government with regards to solid waste, liquid effluents and air pollution.

FORESTS, INDUSTRY IMPACTS & STANDARDS

18. (U) The following two directorates will be key for PTPA implementation. Forest Patrimony and Wildlife would be responsible for the strategic development of forest patrimony, including the ordering and the criteria for protection and recovery of forests. Environmental Policies, Norms and Valuation would be responsible for reviewing Strategic Environmental Studies, approving EIAs for large or environmentally sensitive projects, and elaborating and reviewing Environmental Quality Standards and Maximum Permissible Limits.

INCREASED CIVIL SOCIETY PARTICIPATION

19. (U) The proposal stresses increasing civil society participation and public awareness. The permanent, 10-member Environmental Coordination Council, proposed by NGOs and adopted by the Brack Commission, would promote dialogue and coordination on environmental issues among business associations, civil society and the government. It would be presided by the Minister and would include one member elected from within each of the following groups: business associations, environmental NGOs, Amazonian peoples organizations, rural organizations, the National Assembly of (university) Rectors, professional associations, regional governments, local governments, and public environmental entities. The Directive Council of the Natural Protected Areas Fund (PROFONANPE) would be presided by the Minister and include the following seven members: the head of SERNANP, a representative from the Economy and Finance Ministry (MEF), a

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representative from regional governments, three Peruvian environmental NGOs with NPA experience, and one international assistance or finance entity (invited by the Ministry).

STRONGER ENFORCEMENT & NPA PROTECTION

110. (U) The new Environmental Supervision and Enforcement Organism (OSFA) would enforce, supervise, control, and sanction corresponding environmental matters. This oversight would include compliance with Strategic Environmental Studies, EIAs for large or environmentally sensitive projects, and environmental norms and standards. OSFA would refer penal cases to the Public Ministry. Like other ministries, the Environment Ministry would have its own Public Prosecutor's office. Among its duties, the new National Natural Protected Areas Service (SERNANP) would have enforcement and sanctioning authority regarding Natural Protected Areas. SERNANP would also be responsible for emitting binding technical opinions on investment projects that could affect National Protected Areas and their buffer zones BEFORE such investments move forward.

PRODUCTIVE ASPECTS STAY WITH EXISTING MINISTRIES

111. (SBU) As Brack previewed on January 30 to a USG interagency team, the new Ministry will not assume productive responsibilities. For example, the commercial aspects of timber will remain with the Ministry of Agriculture (which is being reorganized this month), but the Environment Ministry will take over the conservation and protected area aspects.

Similarly, Brack said that the environmental offices in other ministries would not be closed, but the Environment Ministry would oversee their activities. He added that elevating environmental issues to the ministry level is a drastic improvement over the current system that includes an Environment Commission (CONAM) that does not have a seat at the Council of Ministers, has no authority over other ministries, and has no enforcement capacity.

COMMENT

¶12. (SBU) President Garcia's decision to create an Environment Ministry was a shrewd political move that demonstrates his government's commitment to environmental issues and addresses long-standing criticisms of government policies and enforcement. The stringent commitments of the U.S.-Peru Trade Promotion Agreement (PTPA), as well as the international attention accompanying large-scale investment projects (such as Peru LNG), helped Garcia reach his decision. The proposal addresses many of the biggest criticisms of Peruvian environmental framework: it establishes an entity with authority over other ministries, it improves enforcement and sanctioning authority, it reduces the conflict of interest inherent in productive ministries establishing and enforcing their own environmental standards, it increases opportunities for civil society involvement, it improves coordination with regional and local governments, and it merges disparate offices to provide a centralized location for the public (and foreign governments). In addition to an Environment Ministry led by a qualified minister, the GOP must improve the productive side of Peru's environmental deficiencies to ensure sustainable development.

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